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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,247	03/21/2000	Jian Qin	11710-0160	7378

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EXAMINER
WILSON, DONALD R

ART UNIT	PAPER NUMBER
1713	13

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-13

Advisory Action	Application No.	Applicant(s)	
	09/531,247	QIN ET AL.	
	Examiner	Art Unit	
	D. R. Wilson	1713	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☒ The proposed amendment(s) will not be entered because:

(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☒ they raise the issue of new matter (see Note below);

(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: *See attachment.*

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See attachment.*

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *1-6,10-12,17-19 and 21.*

Claim(s) withdrawn from consideration: *7-9,13-16 and 20.*

8.☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s).

10.☐ Other: _____

D. R. Wilson
Primary Examiner
Art Unit: 1713

ADDITIONAL COMMENTS

Response to Proposed Amendment After Final

1. Applicant's proposed amendment filed 12/06/02, after final rejection, has been fully considered with the following results.

2. The proposed amendment will not be entered because it raises new issues as well as not placing the application in better condition for appeal. The amendment to the specification reciting the dimensions of fibers used in the invention is considered to be new matter because it is not supported by any evidence that such were publicly known to be the dimensions at the time of the invention.

> The relationship between a trademark and the product it identifies is sometimes indefinite, uncertain and arbitrary. The formula or characteristics of the product may change from time to time and yet it may continue to be sold under the same trademark. In patent specifications, every element or ingredient of the product should be set forth in positive, exact, intelligible language, so that there will be no uncertainty as to what is meant. Arbitrary trademarks which are liable to mean different things at the pleasure of manufacturers do not constitute such language. *Ex Parte Kattwinkle*, 12 USPQ 11 (Bd. Apps. 1931).
>
> Identification of the tradenames may be introduced by amendment but it must be restricted to the characteristics of the product known at the time the application was filed to avoid any question of new matter. *See M.P.E.P ' 608.01(v).*

The mere statement that "--- these dimensions are inherent to the respective brand of fiber ---" does not satisfy the requirement of evidence that such were publicly known at the time of the invention. Additionally, the narrowing of Claim 10 to specifically recite that the material is a fiber narrows the scope of what is being claimed which would require further consideration.

3. Applicant's arguments traversing the rejection under 35 U.S.C. § 112, first paragraph, concerning the structure and chemistry of lauryldimethyl amine oxide is not deemed to be persuasive for reasons of record. Applicant's suggestion that the ACS registry file for lauryldimethyl amine oxide is incorrect and proposal of alternate structures is not deemed to be persuasive because it is supported by neither scientific principles nor facts. Applicant appears not to know what an amine oxide is, and that it contains a nitrogen oxygen bond wherein the nitrogen has four bonds and a formal positive charge, and the oxygen has a single bond and a negative charge. Applicant is referred to most any basic organic textbook e.g., Pines p. 377. To suggest that an amine oxide has two functional groups, an amine group and an oxide group is repugnant to the art.

4. The proposed amendment to Claim 21 is not deemed to be persuasive in overcoming the rejection under 35 U.S.C. § 112, first paragraph, and would raise a new issue, i.e., sufficient to do what. It is suggested that language such as used in the proposed amended Claim 2 could be used, i.e., sufficient to promote reaction between the first and second functional groups.

5. The proposed amendment if entered would have overcome the rejection of Claim 2 under 35 U.S.C. § 112, second paragraph, concerning the amount of water sufficient to solvate the surface, and in this regard the rejection would have been withdrawn. The proposed amendment would not have overcome the other bases of rejection for reasons of record. It remains that a lauryldimethyl amine oxide has one functional group, and floating time is dependent on the material dimension. The latter has been previously acknowledged by applicant,

6. Applicant's traversal of the prior art rejections is also not deemed to be persuasive for reasons of record. Further, the statements that pulverization and coagulation are not activating processes are not deemed to be persuasive because it is not supported by any evidence. The statement that "--- these methods are not applicable to superabsorbent fibers because these methods would change/destroy the physical form of the fiber" is not relevant because the instant claims are not limited to a method of making a permanently wettable superabsorbent fiber. It is also to be noted that lauryldimethyl amine oxide could not have a protonated amine group "NR_3H^+".

Future Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. R Wilson whose telephone number is 703-308-2398.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 703-308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications. The unofficial direct fax phone number to the Examiner's desk is 703-872-9029.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2351.

att: Paper 37.

D. R. WILSON
PRIMARY EXAMINER

adv: 12/28/02